



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

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Reply to
Attn. of:

SP 94-C-44

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Subject: Confidentiality of Free and Reduced Price Information

To:

STATE AGENCY DIRECTORS
(Special Nutrition Programs)

- Colorado ED, Iowa, Kansas, Missouri ED,
Montana OPI, Nebraska ED, North Dakota,
South Dakota, Utah, Wyoming ED

The following sets forth guidance on the confidentiality of free and reduced price (f/rp) information, and means by which such confidentiality may be waived under certain conditions.

A. Confidentiality of f/rp information

The following is based on Section 9 (b)(4) of the National School Lunch Act and Section 245.8 of the Regulations, both of which prohibit the overt identification of children who are eligible to receive f/rp meals, or free milk.

1. It is the policy of this Agency that the following information on f/rp eligibility must be treated confidentially by the school food authority (SFA):

- a. Information provided by a household on f/rp meal/free milk applications, and information provided by a household, or by any other source, as part of the process of verification of a household's eligibility.
- b. Information from any Aid to Families with Dependent Children (AFDC), Food Stamp and/or Food Distribution Program on Indian Reservations (FDPIR) agency about the active status of any child or student under either of those programs, provided for the purpose of direct certification of free meal/free milk eligibility.
- c. Information which overtly identifies any child who has been determined eligible for f/rp meals or free milk.

The prototype Letter to Parents for School Meals contains statements on both confidentiality and nondiscrimination. Those statements are:

Confidentiality: The information you provide will be treated confidentially and will be used only for eligibility determination and verification of data.

Nondiscrimination: Children who receive free or reduced price meal benefits are treated the same as children who pay for meals.

2. The information that is provided for eligibility determination and verification is to be used only for those purposes, and the information regarding the f/rp eligibility status of any child is to be used only for the purpose of issuing benefits and counting and claiming eligible meals served to that child.

3. The only personnel in the school food authority who should have access to any of this information are those persons who have direct administrative responsibility in the program.

4. Not only must the information be used only by appropriate personnel for appropriate program purposes, it also must be actively protected from unauthorized disclosure or misuse.

B. Authorized disclosure of f/rp information for non-program purposes

Under certain circumstances as stated below, an SFA may be authorized to release f/rp information in an aggregate form or in a form which identifies individual students and/or households.

1. The release of aggregate f/rp data for an entire SFA, or for a school in the SFA, is permissible when the data is provided to a governmental agency which is implementing certain federal vocational education or job training programs.

Aggregate f/rp information is defined as "aggregated totals of numbers of families [or children] approved for receipt of free and [or] reduced price school lunch." Such data must not, under any circumstances, identify families or children by name or by any other unique identifiers.

This type of data has been specifically approved for release to other agencies for two programs. The first, approved since 1987, permits the release of aggregate f/rp eligibility data to vocational education agencies administering programs under the Carl D. Perkins Act. The second, approved in 1993, permits the release of aggregate f/rp data to agencies administering job training programs under the Job Training Reform Amendments of 1992. It should be noted that if an agency under these or any other programs needs to verify the f/rp eligibility of individual children, it must arrange with the SFA to follow the parental/household waiver procedures set out below.

2. The guidelines presented below allow for the release of individuals' f/rp information, and have been developed out of the Agency's interest in helping to make means-tested programs and benefits more accessible to low-income children and their households while continuing to fully protect the right to privacy of the children and households in question. The guidelines set forth the conditions under which the State agency (SA) or SFA may request and obtain a household's waiver of its rights to privacy, which then permits the SA or SFA to supply f/rp information to a specific agency or program(s). The SA or SFA may incorporate this waiver in a modified version of the application form for f/rp benefits, or in a form sent to the household after it has been determined to be eligible for f/rp benefits. The SA may require SFA use of specific prototype documents or restrict the SFA to the use of only certain procedures, both with respect to the multi-use application and with respect to waiver of confidentiality after

eligibility has been determined. In addition, or as an alternative, the SA may require each SFA to obtain SA approval of forms and/or procedures which the SFA proposes to use in instituting any waiver procedures.

a. Multi-Use Free and Reduced Price Applications

To protect the household's rights to privacy while allowing the information on the application, and/or f/rp eligibility determination, to be used for more than the school nutrition programs, the application must allow the household to specifically waive the right to confidentiality. The SA or the SFA must adhere to the following guidelines regarding the waiver of confidentiality:

- 1) The waiver must advise the household that the information provided on the application will be used for eligibility determinations for programs other than school nutrition programs.
- 2) The waiver must precisely identify the agencies the information will be shared with and for what purposes.
- 3) The application must state that the signing of the waiver must not be construed by the applicant or the program administrator as an additional requirement or a prerequisite for participation in any of the school nutrition programs.
- 4) The applicant must be able to limit the waiver to encompass only those programs to which he or she wished to apply. For example, the application could use a check-off system under which the applicant would check or initial a box to indicate that he or she wants to apply for benefits from a particular program.
- 5) Although the application for school meals or milk may be signed by any household adult member, the application must state that the waiver of confidentiality must be signed by the parent or legal guardian for the child.
- 6) The social security number notice required by the Privacy Act of 1974 must be modified. In addition to the current statement, applicants must be informed that while other programs on the multi-use application may not require social security numbers as a condition of eligibility, once provided, the social security number may be used by the other programs. If any other program plans to use social security numbers for any purpose, a statement of those uses must be included.

7) The SA or SFA must ensure, in writing, that entities receiving information from the multi-use application limit the use of such information to the purposes specified on the application. This may be done through a Memorandum of Understanding with the agency or agencies which will receive the information. This is to ensure that the household's rights to privacy are respected by using the information only for the purposes agreed to.

8) Other programs or agencies which receive information through the multi-use application may wish to have additional or follow-up information. This should be collected by means other than the multi-use application.

b. Confidentiality Waiver Under Direct Certification and/or Following Application Approval

The SA or SFA may request individual households' waiver of rights to confidentiality of f/rp information through the use of waiver request forms sent to the households after children's eligibility has been determined. A household's waiver of confidentiality in this case can only authorize school officials to use the child's f/rp meal certification for the purpose(s) stated in the waiver.

The waiver provision may be contained in a form established solely for the purpose, or it may be incorporated in a modified version of the notice of eligibility for school meals or free milk that the SFA must send to the household. A household interested in obtaining the specified service(s) or benefit(s) would return a signed waiver to the school. In the case in which the Food Stamp, AFDC, or FDPIR agency provides the household a letter or notice to take to the school to establish f/rp eligibility, food stamp/AFDC/FDPIR officials may include the waiver provision as part of the notice form. The SA or SFA must adhere to the following guidelines regarding the waiver of confidentiality:

- 1) The waiver must advise the household that its child's eligibility for f/rp meals, or free milk, will be used for eligibility determinations for other benefits or programs.
- 2) The waiver must precisely identify the agencies or programs which will receive information on the child's f/rp eligibility, and the purpose(s) for which the information is to be used.
- 3) The waiver must advise the household that signing the waiver of confidentiality is not a requirement or a prerequisite for participation in any of the school nutrition programs.

- 4) The applicant must be able to limit the waiver to those programs for which he or she wishes to apply. For example, the notice could use a check-off system under which the parent/guardian would check or initial a box to indicate that he or she wants to apply for benefits from a particular program. A separate box would be provided for each individual program/use.
- 5) The waiver must clearly state that in no event will the SFA indicate that a household is eligible for Food Stamp, AFDC or FDPIR benefits.
- 6) The waiver of confidentiality must be signed by the parent or legal guardian of the child.
- 7) If the household is asked to provide a social security number, a Privacy Act statement must be included informing the household whether providing the social security number is voluntary or mandatory, by what authority the number is solicited, who will use the number, and how it will be used.
- 8) The SA or SFA must have written assurance that entities receiving information about the child will limit the use of such information to the purposes specified by the household. This may be done through a Memorandum of Understanding with the agency or agencies who will receive the information. This is to ensure that the entities receiving the information respect the household's rights to privacy by using the information only for the purposes agreed to.

If you have any questions please contact our office.

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